

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

10	IVAN CASARES ANDRADE,	)	
11	a/k/a Jose Velasquez Trujillo,	)	
12	Petitioner,	)	CASE NO. C05-1474-JLR-JPD
13	v.	)	
14	THOMAS A. LONG,	)	REPORT AND RECOMMENDATION
15	Respondent.	)	
16		)	

Petitioner is currently in federal custody at the Eloy Detention Center in Eloy, Arizona. He has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which he seeks to challenge his 1991 King County Superior Court conviction on drug charges. It appears, however, that this Court lacks subject matter jurisdiction over petitioner's petition.

Subject matter jurisdiction under 28 U.S.C. § 2254 is limited to those persons "in custody pursuant to the judgment of a State court." 28 U.S.C. § 2254(a); *Brock v. Weston*, 31 F.3d 887, 889 (9th Cir. 1994). Once a petitioner's sentence has fully expired, he is precluded from challenging that sentence because he is no longer "in custody" for purposes of federal habeas review. *Maleng v. Cook*, 490 U.S. 488, 492 (1989).

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The record before this Court indicates that petitioner was sentenced in January 1992 to serve 45 months in the custody of the Washington Department of Corrections on the conviction which he seeks to challenge in this federal habeas action. (Dkt. No. 1 at 22-24.) The record further indicates that petitioner, having completed the requirements of that sentence, was discharged from the confinement and supervision of the Secretary of the Washington Department of Corrections on August 19, 1998. As petitioner has fully served the Washington sentence he now seeks to challenge, he is no longer “in custody” for purposes of § 2254. This Court therefore lacks subject matter jurisdiction over petitioner’s federal habeas petition. Accordingly, this Court recommends that petitioner’s petition and this action be dismissed with prejudice. A proposed order accompanies this Report and Recommendation.

DATED this 13th day of October, 2005.

James P. Donohue

JAMES P. DONOHUE  
United States Magistrate Judge

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